

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
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April 30, 2004

Opinion No. 04-082

State Billboard Regulations

QUESTION

What existing Tennessee laws regulate and control the installation of, improvement of, and modification of billboards?

OPINION

The Tennessee General Assembly has enacted various statutes that regulate and control the installation of, improvement of, and modification of billboards erected within the territorial boundaries of the State of Tennessee. Those statutes are codified in Chapters 17 and 21 of Title 54 of the Tennessee Code Annotated. Also, pursuant to the authority granted by Tenn. Code Ann. § 54-21-112, the Commissioner of the Tennessee Department of Transportation has promulgated and now enforces rules and regulations established to control outdoor advertising, which includes billboards, adjacent to Federal-Aid Primary and Federal-Aid Interstate highway systems within the State of Tennessee. *See Rules of the Tennessee Department of Transportation, Maintenance Division, Chapter 1680-2-3.*

ANALYSIS

In 1972 the Tennessee General Assembly enacted the Billboard Regulation and Control Act of 1972, which is codified in Chapter 21 of Title 54 of the Tennessee Code Annotated. This statute grants the Commissioner of the Tennessee Department of Transportation (hereinafter the “Commissioner”) the authority to regulate and control the construction, erection, operation, use, and maintenance of outdoor advertising, which includes billboards, adjacent to Federal-Aid Primary and Federal-Aid Interstate highways within the State of Tennessee through the issuance of permits and tags. Tenn. Code Ann. § 54-21-104. This statute also grants the Commissioner the authority to enter sites upon which outdoor advertising is located and dispose of, remove, or destroy outdoor advertising that lacks the necessary permit. Tenn. Code Ann. §§ 54-21-105 and 115.

This statute also grants the Commissioner the authority to promulgate and enforce “any and all regulations as required and necessary to fully carry out the provisions of this chapter (Chapter 21 of Title 54 of the Tennessee Code Annotated) and the provisions of 23 U.S.C. § 131” (which is a federal statute with a similar regulatory purpose). Tenn. Code Ann. § 54-21-112. Accordingly, the Commissioner has promulgated and now enforces rules and regulations established to control

outdoor advertising, including billboards, adjacent to Federal-Aid Primary and Federal-Aid Interstate highway systems within this state. *Rules of the Tennessee Department of Transportation, Maintenance Division, Chapter 1680-2-3.*

Chapter 1680-2-3-.03 provides specific criteria for the erection and control of outdoor advertising. This chapter also provides restrictions on the maintenance and modification of non-conforming outdoor advertising. *Rules of the Tennessee Department of Transportation, Maintenance Division, Chapter 1680-2-3-.04.*

The General Assembly has also enacted the Scenic Highway System Act of 1971 and the Tennessee Parkway System Act, both of which are codified in Chapter 17 of Title 54 of the Tennessee Code Annotated. Both acts impose restrictions on the construction, use, operation and maintenance of any advertising structure located within 2,000 feet of any road or highway which is a designated part of these systems. Tenn. Code Ann. §§ 54-17-108, 109, 110, 205 and 206.

This office also recognizes that local governments assert control over outdoor advertising pursuant to local ordinances.

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